HOUSE RESEARCH ORGANIZATION • TEXAS HOUSE OF REPRESENTATIVES
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HOUSE RESEARCH ORGANIZATION

daily floor report

Thursday, April 04, 2019
86th Legislature, Number 39
The House convenes at 10 a.m.

Three bills are on the Major State Calendar and 13 bills are on the General State Calendar for second reading consideration today. The table of contents appears on the following page.

Dwayne Bohac
Chairman
86(R) - 39

HOUSE RESEARCH ORGANIZATION

Daily Floor Report
Thursday, April 04, 2019
86th Legislature, Number 39

SUBJECT: Continuing the Texas Historical Commission

COMMITTEE: Culture, Recreation and Tourism — committee substitute recommended

VOTE: 9 ayes — Cyrier, Martinez, Bucy, Gervin-Hawkins, Holland, Jarvis Johnson, Kacal, Morrison, Toth

0 nays

WITNESSES: For — Mike Brannon, Friends of Washington-on-the-Brazos State Park; Evan Thompson, Preservation Texas; Rick Stryker, Tropical Trail Region; Valerie Bates; J Frank Monk; Michael Moore; (*Registered, but did not testify*: Bill Kelly, City of Houston Mayor's Office; Catherine Sak, Texas Downtown Association; Gena Carter; Tom Hatch)

Against — None

On — Jared Hockema, City of Port Isabel; Cyrus Reed, Lone Star Chapter Sierra Club; Mark Wolfe, Texas Historical Commission; Carter Smith, Texas Parks and Wildlife Department; Steven Ogle, Texas Sunset Advisory Commission; (*Registered, but did not testify*: Rodney Franklin, Texas Parks and Wildlife Department; Abby Pfeiffer, Texas Sunset Advisory Commission)

BACKGROUND: Founded in 1953 as the Texas State Historical Survey Committee, the Texas Historical Commission (THC) is charged with protecting and preserving historical and prehistorical resources for the enjoyment, education, and economic benefit of the people of Texas, both present and future generations. The agency is responsible for:

- identifying and designating historic resources throughout the state;
- supporting local communities in their efforts to develop and preserve historical resources;
- promoting heritage tourism;
- reviewing potential construction efforts that are aimed at protecting historic resources;
- managing 22 historic sites across the state; and

- acting as a steward of the state's history and related resources.

Governing structure. THC is governed by a 15-member, governor-appointed commission that provides direction and oversight regarding the agency's activities. Twelve of the members represent the general public, and three individuals specialize in archaeology, history, and architecture, respectively.

Size and scope of the agency. The agency manages sites, oversees programs, and administers grants throughout the state. Over the past 20 years, the scope of the agency has broadened, as several sites have been transferred to the agency from the Texas Parks and Wildlife Department. THC has 208 employees, with 122 employees at the agency's headquarters in Austin and 86 staff members at historical sites across the state.

Budget and expenditures. THC received $41.7 million in revenue for fiscal 2017, of which 59 percent was from the general revenue fund, 15 percent from sporting goods sales tax revenue, and 15 percent from bond proceeds. Federal funds constituted 3 percent of the agency's funding for fiscal 2017, and the remainder of THC's revenues were from a trust fund and other appropriated revenues. For the 2018-19 biennium, the Legislature appropriated $12.1 million from the Economic Stabilization Fund to the agency to offset a reduction in general revenue.

The Texas Historical Commission would be discontinued on September 1, 2019, unless continued in statute.

DIGEST:

CSHB 1422 would continue the Texas Historical Commission (THC) until 2031, transfer six historic sites from the Texas Parks and Wildlife Department (TPWD) to THC, establish the Heritage Trails program in statute, and align certain statutory requirements with industry best practices.

Site transfers. CSHB 1422 would transfer the following historic sites from TPWD to THC, beginning on September 1, 2019:

- Fanthorp Inn State Historic Site;
- Lipantitlan State Historic Site;

- Monument Hill and Kreische Brewery State Historic Sites;
- Port Isabel Lighthouse State Historical Monument and Park;
- San Jacinto Battleground State Historic Site; and
- Washington-on-the-Brazos State Historic Site.

The bill would establish THC as the successor agency to TPWD for these historic sites. All obligations and liabilities of TPWD related to those sites, along with all unobligated and unexpended funds appropriated to the department for those sites and all equipment and property used for their administration, would be transferred to THC. Beginning on September 1, 2019, any reference in the Parks and Wildlife Code or other law to a power, duty, obligation or liability of the Parks and Wildlife Department or the Parks and Wildlife Commission related to these historic sites would be a reference to the Texas Historical Commission.

Before September 1, 2019, TPWD could agree to transfer any property to the THC in order to implement the transfer of these sites.

Heritage Trails. The bill would authorize THC to establish and administer the Texas Heritage Trails Program to promote cultural and heritage tourism in the state.

THC would be allowed to enter into a contract with one or more nonprofit organizations to fulfil the duties of the Texas Heritage Trails Program, and would be required to adopt rules defining the principles of heritage tourism and relating to contracts entered into with nonprofit organizations. These rules would require each contract to clearly establish:

- the role of the nonprofit organization in promoting heritage tourism;
- the nature of the relationship between THC and the nonprofit;
- performance expectations for the nonprofit organization and requirements and expectations regarding the organization's employees;
- THC's expectations regarding ownership of any literature, media, or other products developed or produced by the nonprofit to promote heritage tourism during the course of the contract;

- THC's long-term goals for the program and the organization's role in meeting those goals;
- a system for evaluating the nonprofit organization's overall performance; and
- the types of support, other than financial support, that THC would provide to the nonprofit organization to assist in the implementation and administration of the Texas Heritage Trails Program.

Sale of historic property. CSHB 1422 would grant certain state agencies with qualifying curatorial collections the authority to sell certain property.

The bill would apply only to state agencies that maintained a qualifying collection, were authorized by THC to dispose of surplus or salvage property, and had adopted a written policy governing procedures related to the care of the collection and the deaccession of items from it. A state agency could sell an item from a qualifying collection only if the agency determined the sale was appropriate under its policies for the care of the collection. Before a state agency or the THC sold surplus or salvage property, THC would be required to verify that the decision to sell the property was made in compliance with the agency's policy for the care of a qualifying collection.

The proceeds from the sale of a deaccessioned item would be deposited into a dedicated account in the general revenue fund. This money could be appropriated only to the state agency for which the comptroller deposited the money to the account for the care and preservation of the agency's qualifying collection.

Other provisions. CSHB 1422 would change the distribution of sporting goods sales tax collections that are credited to TPWD and THC each biennium. TPWD would receive 93.4 percent instead of the current level of 94 percent, and THC would receive 6.6 percent instead of the current level 6 percent.

The bill would allow THC to delegate its authority by vote to the executive director to perform the duties or exercise THC's powers.

CSHB 1422 would delay the transfer of the legal title to the San Jacinto Battleground State Historic Site from TPWD to THC, pending approval of a federal grant application by TPWD. The title would be transferred to THC on either the date on which the application was denied or September 1, 2021, whichever was earlier.

CSHB 1422 would abolish the Texas Courthouse Preservation Program Advisory Committee and the advisory board for the Texas Preservation Trust Fund Account.

Standard recommendations. CSHB 1422 would apply several standard Sunset recommendations to THC, including provisions on training for THC members.

Effective date. The provisions of the bill regarding the transfer of six historic sites from TPWD to THC would take immediate effect if the bill was finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect the 91st day after the last day of the legislative session.

The bill would take effect September 1, 2019.

SUPPORTERS SAY:

CSHB 1422 would allow the Texas Historical Commission (THC) to continue its work protecting and preserving the state's most valuable historic sites and better enable it to protect historic resources. THC's work has numerous positive cultural and economic impacts on the state and contributed to an estimated $3 billion in heritage-related tourism spending in the state last year.

Transfer of historic sites. While the Texas Parks and Wildlife Department (TPWD) has admirably managed the six historic sites addressed in the bill, THC is the logical agency to manage these sites because of their historic nature. Transferring responsibility for these sites to THC would allow for the central management of historic resources, rather than spreading the responsibility for managing historic sites across several separate agencies. Placing the majority of the state's historic sites under THC's administration would better enable the agency to coordinate its approach to telling Texas' story and would allow for greater efficiency

across sites. Transferring the full-time equivalent positions and other TPWD resources responsible for the operation of these sites to THC would ensure continuity in preservation and management, and transferring funding related to these sites from TPWD to THC would ensure no unmet burden was placed on the agency.

Heritage Trails Program. CSHB 1422 would codify the Texas Heritage Trails Program in statute and would strengthen the program's structure by providing increased accountability. This would benefit other agency programs as well, as the regional structure of the Heritage Trails Program provides a framework to develop heritage preservation efforts and expand the reach of other geographically diverse programs such as historical markers, historic sites, and historic county courthouse renovations. These preservation efforts would benefit the surrounding communities and would support economic development through increased heritage tourism.

Sale of certain historic items. Currently, agencies with curatorial collections are unable to properly dispose of items that are not relevant to their mission and purpose, causing storage issues. CSHB 1422 would enable qualifying agencies to sell such items at state and national auctions, where they could receive the maximum price possible. This would not result in agencies selling artifacts to cover operational costs, as national museum accreditation requirements and the provisions of the bill mandate that the proceeds from the sale of an item from a curatorial collection be allocated to the direct care and preservation of the collection. CSHB 1422 would ensure that THC could make the best use of its existing resources while meeting established standards.

OPPONENTS SAY:

CSHB 1422 would mandate an unnecessary transfer of several historic sites from the Texas Parks and Wildlife Department to the Texas Historical Commission (THC). While THC is an important agency and should be allowed to continue, this transfer should not be required as part of THC's Sunset legislation.

Transfer of historic sites. THC may not possess the expertise necessary to preserve and maintain certain environmental aspects of the historic sites that would be transferred to the agency under CSHB 1422. The commission is not as well positioned to restore and maintain the coastal

prairie and tidal marshes of the San Jacinto Battleground, nor does it possess the habitat management and interpretation skills required to oversee Monument Hill and Kreische Brewery State Historical Park. These sites, as well as Washington-on-the-Brazos, could lose the unique focus that TPWD currently brings to landscape and wildlife restoration and preservation if they were transferred to THC. These sites should remain under the authority and management of TPWD.

The transfer of Port Isabel Lighthouse State Historic Monument and Park would interrupt an existing agreement between the city of Port Isabel and TPWD that expires in 2020. The agreement allows the city to use the lighthouse as a tourist attraction for town fairs, markets, and movie screenings. The lighthouse functions as a town square and should continue to do so without interference.

OTHER OPPONENTS SAY:

CSHB 1422 would not address issues related to the process by which errors identified by contemporary historical research are corrected on the state's historical markers. Currently, the Texas Historical Commission has sole authority to make the final decision related to the retention, replacement, or removal of an official historical marker. With no oversight or process for dispute resolution, the people of Texas are left without a voice in an important process to correctly recognize locations significant to their state's history. THC should be made subject to a procedure regarding disputes over text on existing markers.

NOTES:

According to the Legislative Budget Board, CSHB 1422 would result in an estimated cost of $3.4 million in general revenue funds through the biennium ending on August 31, 2021.

SUBJECT: Continuing the Texas Board of Professional Geoscientists

COMMITTEE: Licensing and Administrative Procedures — committee substitute recommended

VOTE: 8 ayes — T. King, Goldman, Harless, Hernandez, Herrero, Kuempel, Paddie, S. Thompson

0 nays

3 absent — Geren, Guillen, K. King

WITNESSES: For — John Tintera, Texas Alliance of Energy Producers; Richard G. Howe; Robert Mace; Carolyn May

Against — Arif Panju, Institute for Justice; Vance Ginn, Texas Public Policy Foundation; (*Registered, but did not testify*: Jeremy Dumoit; David Waldrop)

On — (*Registered, but did not testify*: Morgan Constantino, Sunset Advisory Commission; Wesley McCoy and Rene David Truan, Texas Board of Professional Geoscientists)

BACKGROUND: The 77th Legislature established the Texas Board of Professional Geoscientists in 2001. It is governed by Occupations Code ch. 1002. The board's mission is to protect public health, safety, welfare, and the state's natural resources by ensuring only qualified individuals carry out the public practice of geoscience.

Functions. The board's key duties include:

- licensing qualified geoscientists and registering geoscientists-in-training and geoscience firms;
- investigating and resolving complaints and taking disciplinary action when necessary to enforce the board's statutes and rules;
- conducting outreach to and education events for the public;
- informing other state agencies about relevant statutes and rules; and

- providing information on how to report violations to the board.

Governing structure. The board is made up of nine members appointed by the governor. Six members must be licensed geoscientists and three members represent the public.

Funding. Funding for the board is primarily generated from professional geoscientist licensing fees and administrative penalties. Historically, the board generates revenue in excess of what is necessary to cover appropriations, and all excess revenue is deposited into the general revenue fund. In fiscal 2017, the board generated revenue of $944,422 and deposited excess revenue of $234,381 into the general revenue fund.

Staffing. The Board of Professional Geoscientists employed a total of six staff members in fiscal 2017.

The Texas Board of Geoscientists would be discontinued on September 1, 2019, if not continued in statute.

DIGEST:

CSHB 1311 would continue the Texas Board of Professional Geoscientists until September 1, 2025, and would adopt certain new and standard recommendations from the Sunset Advisory Commission.

Licensing requirements. CSHB 1311 would remove the requirements that applicants for a professional geoscientist license have their application forms notarized, submit five letters of recommendation, and be of "good moral and ethical character." The bill would deem any statement made by a person who provided information to the board relating to an applicant as privileged and confidential.

An application for a license filed before the effective date of the bill would be governed by the law in effect at the filed date.

Administrative penalty. CSHB 1311 would increase from $100 per day to $1,500 per day the maximum administrative penalty against a licensed geoscientist found in violation of any of the provisions of Occupations Code ch. 1002. The penalty would apply only to conduct that occurred on or after the effective date of the bill.

Board selection. The bill would require the governor to designate a member of the board as the presiding officer to serve at the discretion of the governor. The board would be required to elect biennially from its own membership an assisting presiding officer who could serve for a maximum of two consecutive biennia and be removed by a two-thirds majority vote of the board.

Board member training. The bill would require the board to expand its existing training program to provide information on:

- law governing board operations;
- the board's programs, functions, rules, and budget;
- the scope of and limitations on the rulemaking authority of the board;
- the types of board rules, interpretations, and enforcement actions that could implicate federal antitrust law by limiting competition or impacting prices charged by professionals or businesses the board regulated; and
- the requirements of laws relating to open meetings, public information, administrative procedure, disclosure of conflicts of interest, and other laws applicable to members of a state policymaking body in performing their duties.

The executive director of the board would create and distribute a training manual with all the information listed above to each member of the board. Each member would be required to confirm to the executive director that they had received and reviewed the manual.

A board member could not vote, deliberate, or be counted in attendance at a board meeting held on or after December 1, 2019, until the member completed the necessary training.

Alternative dispute resolution. CSHB 1311 would require the board to develop a policy encouraging the use of negotiated rulemaking procedures and appropriate alternative dispute resolution procedures in accordance with the guidelines issued by the State Office of Administrative Hearings.

The board would be required to coordinate the implementation of, provide training for, and collect data concerning the effectiveness of the procedures.

Complaint system. CSHB 1311 would require the board to maintain a system to promptly and efficiently act on complaints filed with the board. The board could employ or contract with certain experts to provide technical assistance in investigations and disciplinary proceedings. Such experts would be immune from civil liability except for actions involving fraud, conspiracy, or malice.

Effective date. The bill would take effect September 1, 2019.

SUPPORTERS SAY:

CSHB 1311 would allow the Texas Board of Professional Geoscientists to continue to positively impact public health, safety, welfare, and the state's natural resources. It also would decrease barriers to entering the profession and standardize the board's complaint system.

Public protection. CSHB 1311 would ensure the board continued to guarantee that practicing geoscientists possessed the education and experience needed to effectively execute their vital work. Geoscientists perform an array of services, including environmental site assessments, fault studies, and groundwater resources studies. Much of their work involves the protection of groundwater and soil. The Texas Commission on Environmental Quality (TCEQ) and the Railroad Commission (RRC) also rely on geoscientists for accurate and professional assessments. The bill would allow the board to continue licensing geoscientists who protected groundwater and subsurface soil by properly remediating and reporting to the TCEQ and RRC.

The bill appropriately would preserve certain exemptions in existing law for grandfathered licensees or geoscientists conducting activities that did not impact public health, safety, and welfare. For cases in which the exempt activities caused accidental contaminations, licensed geoscientists still would be required to assess and address contamination properly. The bill would not affect the regulation of those activities.

Licensing. CSHB 1311 would reduce barriers to entry into the geoscience

profession by eliminating application form notarization and letter of reference requirements for applicants seeking a license. The bill also would train all board members in rules, interpretations, and enforcement actions that could violate certain laws that limit competition. The bill would ensure all board members reviewed training information by prohibiting them from continuing certain board functions until they completed the training.

CSHB 1311 would not affect or change the board's ability to waive any of the license requirements for applicants who made a written request and showed good cause for seeking a requirements waiver. The bill also would not change an individual's ability to appeal an administrative penalty.

Complaint system. CSHB 1311 would strengthen the board's complaint process by bringing the board into conformity with the Sunset Advisory Commission's standard policies.

OPPONENTS SAY:

Rather than continuing the Texas Board of Professional Geoscientists for six more years, CSHB 1311 should allow the board to be abolished. The board serves as an unnecessary barrier into the profession, furthers exemptions that result in ineffective licensing procedures, and does not contribute to meaningful protection of the public.

Public protection. CSHB 1311 would allow the unnecessary regulation of geoscience to continue. The Sunset staff report found no examples of significant harm to the public directly attributable to unqualified or substandard geoscience before the board was created. The license is not needed to ensure public safety, as evidenced by the large number of geoscientists exempt from regulation, including those practicing under the grandfather clause or oil and gas exemptions.

Licensing. Although the bill would remove certain application requirements, licensing would remain a barrier to entering the field of geoscience. For example, licensing is available only for geoscientists who hold degrees in certain science fields, impeding the ability of geoscientists with degrees in other fields from competing. Unlicensed individuals may still do some geoscience work but only under the supervision of a licensed practitioner, limiting their ability to open their own businesses.

The regulation of geoscience also poses a burden to military service members. Not all states require a license to practice, so military families moving to Texas from a non-licensing state could encounter difficulties petitioning the board to be exempt from the licensing requirements. The bill also would pose an unnecessary burden for lower-income individuals wishing to enter the field of geoscience due to the application fee for a license and the fines associated with practicing without a license.

Complaint system. CSHB 1311 would add additional requirements to a complaint system that is unnecessary. The majority of licensed geoscientists in the state are grandfathered and practice geoscience without having passed the exam required of new licensees, yet the board has not received a complaint that posed significant harm or risk to the public due to dangerous geoscience practices.

SUBJECT: Continuing the Texas Military Department

COMMITTEE: Defense and Veterans' Affairs — committee substitute recommended

VOTE: 6 ayes — Flynn, Tinderholt, Ashby, Hinojosa, Reynolds, Romero

1 nay — Ramos

1 absent — Lozano

WITNESSES: For — None

Against — (*Registered, but did not testify*: Fidel Acevedo)

On — Robert Romig, Sunset Advisory Commission; Tracy Norris and Shelia Taylor, Texas Military Department

BACKGROUND: The Texas Military Department (TMD) comprises both the Texas Military Forces and the state agency that provides civilian administrative support to those forces. The Texas Military Forces include the Texas Army National Guard, the Texas Air National Guard, and the Texas State Guard and consisted of about 23,200 members at the end of fiscal 2017.

Functions. In cooperation with the National Guard Bureau, an arm of the Department of Defense (DOD), and other entities, TMD trains, equips, and maintains readiness of National and State Guard units to provide military forces to support local, state, and federal missions domestically and overseas. State military-support operations include providing personnel and equipment for use in responding to natural and manmade disasters and for border security, counterdrug, and public health missions. TMD maintains Army National Guard facilities throughout the state.

The department provides services to guard members and their families, including state-funded tuition assistance, legal and financial services, and counseling for mental health and other issues. TMD operates two education programs; one helps high school students at risk of dropping out, and the other promotes interest in science and technology among

elementary school students.

Governing structure. The governor is the commander-in-chief of the state's military forces and, with the consent of the Senate, appoints an adjutant general to a two-year term to serve as both commanding general over the Texas Military Forces and administrative head of TMD. The governor also appoints two deputy adjutant generals for the Air and Army National Guards and a commander for the State Guard. TMD does not have a rulemaking or policy body, and all state administrative rules are adopted by either the adjutant general or the governor.

The adjutant general has a joint staff that coordinates operations using components of the Texas Military Forces and advises on common functions such as readiness, planning, and logistics. TMD maintains duplicate federal and state offices for many administrative functions, such as human resources, finance, and payroll, and divides these traditional agency functions between federal offices under the adjutant general's chief of staff and a state executive director specifically named in state law.

Funding. TMD's funding totaled about $101.1 million in fiscal 2017, including about $28.1 million in direct state appropriations and $14.6 million from border security contracts with the Department of Public Safety. TMD also received about $58.4 million in federal funds.

Staffing. About 4,850 employees support TMD's day-to-day military and administrative tasks. Around 20 percent of TMD's staff are located at Camp Mabry, the department's headquarters in Austin, and the rest are spread across the state in various armories. The DOD directly provides 4,300 of these staff as regular federal employees. Of the others classified as state employees, the state fully funds about 70, and the DOD fully or partially reimburses the rest.

TMD would be discontinued September 1, 2019, if not continued in statute.

DIGEST:

CSHB 1326 would continue the Texas Military Department (TMD) until September 1, 2031, and would amend several provisions related to its internal management and operations.

Administration of state operations. The bill would change the title of the administrative head of TMD responsible for managing the department from "executive director" to "director of state administration." The director of state administration would be a senior-level employee of TMD appointed by the adjutant general.

The bill would specify that the director of state administration was responsible for the daily administration of TMD's state support operations and could hire employees to carry on such operations. The adjutant general would be required to implement a policy outlining the director of state administration's responsibility for state administrative interests across all programs, including evaluating procedures for oversight of state employees and mitigating compliance risks.

The bill would require the adjutant general to assume responsibility for all administration of TMD, including ensuring compliance with applicable state law and priorities and overseeing state employees.

State benefits. The bill would specify that the days certain members of the state military forces had to be on state active duty or training to qualify for state group insurance benefits had to be consecutive.

Tuition assistance for guard members. The bill would remove a limit on the number of tuition assistance awards the adjutant general could grant per semester to eligible members of the Texas State Guard.

Effective date. The bill would take effect September 1, 2019.

SUPPORTERS SAY:

CSHB 1326 would continue the Texas Military Department (TMD) for 12 years, ensuring that Texas had ready and capable military forces to support state and federal missions, including for national defense and in response to domestic emergencies. Texas maintains the largest National Guard force in the country, and the Department of Defense frequently looks to Texas' recruiting strength and has deployed Texas National Guard units across the globe. Texas Military Forces are a key component of the state's disaster planning and response. TMD has assisted in responding to numerous natural disasters, civil support, and law enforcement missions.

Changing the title of the executive director to the director of state administration and clarifying the duties of both this position and the adjutant general's are necessary steps to strengthen TMD's internal oversight of its diverse state functions. These changes would ensure applicable statute integrated state administrative interests into TMD's leadership structure. The current structure dilutes the adjutant general's responsibility for and visibility in state matters. The title of "executive director" implies the position directs the department's entire response to state interests, making it equivalent to an executive director of another state agency. This misleading title causes confusion when working with other states and state agencies, and the lack of clarity has led to low morale in state administrative staff. When the executive director position was created, it was meant to provide oversight of some state employees tasked with state financial, purchasing, human resources, and other administrative matters. The executive director does not have authority to enforce state policies across the department. However, in practice, the use of the title "executive director" has conflicted with the authority of the adjutant general.

CSHB 1326 would clarify that ultimate responsibility for overall day-to-day administration of the department rested with the adjutant general, including compliance with applicable state laws and rules and oversight of state employees. Removing the title of executive director and requiring the adjutant general to appoint a high-level director of state administration as part of TMD's executive leadership would better incorporate state administration into the organization of the department. To elevate the department's attention to state matters, the bill also would direct the adjutant general to adopt a policy outlining the director of state administration's responsibilities to advocate for state administrative interests across all department programs. This general advocacy role would be in addition to the position's current requirements to directly manage certain state employees, enter into contracts, and oversee the daily administration of the department.

The bill would not take away any duties or responsibilities of the executive director position, nor would it expand the adjutant general's authority. Renaming the position would articulate more clearly the

position's role to oversee indirect administration of state operations while serving at the pleasure of the adjutant general. The adjutant general's duties would not be expanded under the bill, as the bill simply would outline in statute the ultimate responsibility the adjutant general currently has over all aspects of the department.

CSHB 1326 also would remove an unnecessary cap for the amount of tuition assistance awards that could be given to State Guard members per semester since the department already may grant more awards if it finds a compelling need.

OPPONENTS SAY:

CSHB 1326 would not ensure adequate oversight of state administrative operations of the department and would concentrate too much authority in the adjutant general. By transferring certain administrative duties currently with the executive director to the adjutant general, the bill would alter the roles of both the adjutant general and the current executive director in the process of reclassifying the latter as the director of state administration. In addition to what already is outlined in statute, the adjutant general would be responsible for ensuring compliance with applicable state law and priorities and overseeing state employees. This would concentrate too much authority in one person.

SUBJECT: Creating a guardianship abuse, fraud, and exploitation deterrence program

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

VOTE: 9 ayes — Leach, Farrar, Y. Davis, Julie Johnson, Krause, Meyer, Neave, Smith, White

0 nays

WITNESSES: For — Mir Alikhan, American Association of Retired Persons; Dennis Borel, Coalition of Texans with Disabilities; Terry Hammond, Texas Guardianship Association; (*Registered, but did not testify*: Mark Cundall, ADAPT of Texas; Jeff Miller, Disability Rights Texas; Kody Kness, Imagine Art; Linda Litzinger, Texas Parent to Parent; Kyle Piccola, The Arc of Texas; Craig Hopper)

Against — None

On — David Slayton, Office of Court Administration, Texas Judicial Council

BACKGROUND: Estates Code sec. 1163.101 requires a guardian of the estate of a ward to file detailed financial and property reports with the court.

DIGEST: HB 1286 would require the Office of Court Administration (OCA) to establish and maintain a guardianship abuse, fraud, and exploitation deterrence program. The program would provide resources and assistance to courts handling guardianship cases by engaging guardianship compliance specialists and maintaining an electronic database to monitor required filings and annual reports by guardians.

The program's guardianship compliance specialists would be required to:

- review guardianships and identify reporting deficiencies;
- audit required annual filings and report their findings to the appropriate courts;
- work with courts to develop best practices in managing

guardianship cases; and
- report to the appropriate courts any concerns of potential abuse, fraud, or exploitation committed against a ward.

Courts selected by the OCA would be required to participate in the program. Courts also could apply to participate. The OCA's administrative director would be authorized to notify the State Commission on Judicial Conduct if the OCA had reason to believe that a judge's actions or failure to act on a guardianship compliance specialist's report of concern constituted judicial misconduct.

The OCA would submit a report on the program's performance to the Legislature by January 1 of each year. The report would have to include:

- the number of courts involved in the program;
- the number of guardianships reviewed;
- the number of guardianship cases found to be out of statutory compliance;
- the number of cases reported to a court concerning potential abuse, fraud, or exploitation committed against a ward; and
- the status of monitoring technology developed for the program.

The bill would take effect September 1, 2019.

SUPPORTERS SAY:

HB 1286 would expand the OCA's Guardianship Compliance Project pilot program to assist courts across the state in better protecting the growing population of Texans under guardianship.

Individuals under guardianship are among the most vulnerable in the state. Lacking the ability to care for themselves or to manage their own affairs, they are forced to rely on court-appointed guardians to take care of their most basic needs. Currently, there are about 51,250 active guardianships in Texas with a combined value of around $5 billion. In recent years, more than 3,500 new guardianships have been created annually, a number that is increasing as the state's population ages.

Although statutes long have required a guardian to submit detailed

financial reports to the court overseeing the guardianship estate, many courts lack the resources to ensure that a ward is not being abused, exploited, or defrauded. The OCA's Guardianship Compliance Project pilot program revealed that 41 percent of the almost 30,000 guardianship cases reviewed were not in compliance with statutory reporting requirements and that nearly 21,000 active guardianships were in counties lacking adequate resources to oversee these cases. While the OCA found that recent reforms have improved the guardianship system in Texas, a key component to these reforms' continued success would be the expansion of the pilot program to monitor compliance with statutory reporting requirements and to review cases for abuse, fraud, and exploitation statewide.

By expanding this well-developed program, HB 1286 would allow the OCA to provide resources and assistance to judges across the state in protecting some of the state's most vulnerable citizens in the most cost-effective manner for taxpayers.

OPPONENTS SAY:

No concerns identified.

NOTES:

The Legislative Budget Board's fiscal note estimates HB 1286 would have a negative impact of $5,941,638 through the biennium ending August 31, 2021.

SUBJECT: Creating a statewide alert system for missing military members

COMMITTEE: Defense and Veterans' Affairs — committee substitute recommended

VOTE: 6 ayes — Flynn, Tinderholt, Ashby, Hinojosa, Reynolds, Romero

1 nay — Ramos

1 absent — Lozano

WITNESSES: For — (*Registered, but did not testify*: Jose Carlos Gonzalez, Gonzalez and Associates Homeland Security; Aimee Bertrand, Harris County Commissioners Court; Shelia Chatman; Valerie James; LaShondra Jones)

Against — None

On — Nim Kidd, Texas Division of Emergency Management; (*Registered, but did not testify*: James Cunningham, Texas Coalition of Veterans Organizations and Texas Council of Chapters of the Military Officers Association of America; Michael Chacon, Texas Department of Transportation)

DIGEST: CSHB 833 would create a statewide camo alert to be activated on behalf of missing military members who suffered from a mental illness, including post-traumatic stress disorder, or a traumatic brain injury.

This alert could be issued for a current or former member of the U.S. armed forces, including the National Guard or a reserve or auxiliary unit of any branch of the armed forces. The alert would be required to include all appropriate information provided by a law enforcement agency that could lead to a safe recovery of the missing military member and a statement instructing any person with information regarding the missing military member to contact a law enforcement agency.

The Department of Public Safety (DPS) would be required to develop and implement the alert in cooperation with the Texas Department of Transportation (TxDOT), the office of the governor, and appropriate state

law enforcement agencies. The public safety director would be the statewide coordinator of the camo alert. DPS would be required to recruit public and commercial television and radio broadcasters, private commercial entities, state or local governmental entities, the public, and other appropriate persons to assist in developing and implementing the camo alert system.

A state agency participating in the camo alert system would be required to cooperate with DPS, assist in developing and implementing the alert system, and establish a plan for providing relevant information to its personnel once the alert system had been activated. TxDOT would be required to create a plan for providing relevant information to the public through the existing system of dynamic message signs located across the state.

Rules. The public safety director would be required to adopt rules and issue directives to ensure the proper implementation of the alert. These rules and directives would include:

- the procedures to be used by a law enforcement agency to verify that a military member was missing and suffered from a mental illness or traumatic brain injury;
- a description of the circumstances under which law enforcement agencies would be required to report a missing military member to DPS;
- the procedures to be used by an individual or entity to report information about a missing military member to a designated media outlet in the state;
- guidelines for protecting the privacy of a military member for whom a camo alert had been issued; and
- the procedures by which a military member could opt out of any activation of the alert.

The public safety director would be required to prescribe forms to be used by law enforcement agencies in requesting activation of the alert system.

Notification to DPS of missing military members. A law enforcement agency would be required to notify DPS if the agency:

- received a report regarding a missing military member;
- verified that the person was a member of the military, that the member's location was unknown, and that the member suffered from a mental illness, including PTSD, or a traumatic brain injury; and
- determined that the military member's disappearance posed a credible threat to the health and safety of the member or of another person.

As soon as practicable after receiving a report concerning a missing military member, a law enforcement agency would be required to verify information concerning the military member and make a determination regarding a credible threat to health and safety. The family or legal guardian of a missing military member would be required to provide documentation of the member's mental illness or traumatic brain injury to a law enforcement agency to verify a member's medical condition.

Camo alert activation and termination. Upon receiving notification from a law enforcement agency of a missing military member, DPS would be required to confirm the accuracy of the information. If the information was confirmed, DPS would be required to immediately issue a camo alert in accordance with the provisions of this bill and DPS rules. DPS would be required to send the alert to designated media outlets in the state. Participating media outlets could then issue the alert at designated intervals to assist in locating the missing military member.

The public safety director would be required to terminate the activation of an alert if the military member was located, the situation was otherwise resolved, or the notification period as determined by DPS rule ended. A law enforcement agency that located a missing military member who was the subject of an alert would be required to notify DPS as soon as possible.

Limitation on TxDOT participation. TxDOT would not be required to use dynamic message signs in a statewide alert if the department received notice from the U.S. Department of Transportation Federal Highway Administration that the use of these signs would result in a loss of federal

highway funds or any other punitive action taken against the state resulting from non-compliance with federal laws, regulations, or policies.

Effective date. The bill would take effect on September 1, 2019, and its provisions would expire on September 1, 2023.

SUPPORTERS SAY:

CSHB 833 would provide a much-needed tool for law enforcement to locate missing military members with mental illness, including post-traumatic stress disorder (PTSD) or traumatic brain injury, who were at risk of harming themselves or others. Implementing a camo alert could save the lives of these missing military members by raising public awareness of their disappearance.

Under this bill, families of missing military members would have the support they need to locate these vulnerable individuals. The bill would enable law enforcement agencies to notify the Department of Public Safety (DPS) of missing military members and ensure a statewide alert was issued. Participating media outlets would be enlisted to help issue camo alerts, raising public awareness of the disappearance of military members and helping to locate them.

DPS could use this tool in very specific cases to help locate missing military members with mental illness or traumatic brain injury. It is especially critical to reach this vulnerable population because PTSD and traumatic brain injury are two conditions associated with disappearance and suicide. In the absence of a statewide alert system, members of the public are not equipped to recognize a missing military member suffering from mental illness or a traumatic brain injury and to notify law enforcement.

A number of similar alert systems in Texas for other vulnerable individuals have been shown to save lives without burdening or overwhelming the public. The camo alert system would be implemented in a similar way, using existing technologies. Because an alert would be used only to locate a missing military member determined to be at risk of harm, it would not result in an oversaturation of alerts. Other states that have created statewide alert systems for missing military members have not seen a large increase in the number of alerts.

The bill would protect the identities of missing military members by requiring the public safety director to develop rules and issue directives ensuring the privacy of individuals for whom an alert was issued. Similar to a silver alert, no personal information on the missing military member would be displayed in alerts. The bill also would protect military members' right to privacy by ensuring they had the ability to opt out of the statewide camo alert system.

Although procedures for the emergency medical detention of individuals at risk of harming themselves or others currently exist, these orders are rare because they are issued only for individuals with prior episodes. In addition, the option of emergency medical detention would be irrelevant in cases covered by the camo alert system because the location of a military member that is the subject of an alert would be unknown.

OPPONENTS SAY:

CSHB 833 would create an unnecessary statewide alert for a missing military member. Law enforcement and medical personnel already have the capability of detaining individuals suffering from mental illness or brain injury who are at risk of harming themselves or others. Creating another alert system in addition to the AMBER, silver, and blue alert systems for missing persons could lead to oversaturation and could desensitize the public to missing person alerts, undermining their effectiveness.

CSHB 833 could jeopardize the privacy of missing military members by issuing a statewide alert that included information about their medical conditions. Mental illnesses, including PTSD and traumatic brain injury, are sensitive conditions that should not be publicly shared without strict protection of an individual's identity. The bill also could subject military members' personal decisions to statewide scrutiny.

Such alerts could risk triggering a PTSD episode in missing military members who suffered from the condition by broadcasting their missing status across the state.

OTHER OPPONENTS

The bill would create a high barrier to using the camo alert system by requiring families or guardians of missing military members to offer

SAY: documentation of a member's mental illness or traumatic brain injury. It could be difficult for families to access or locate a missing military member's medical records and provide them to a law enforcement agency.

SUBJECT: Applying PUC rules on advanced metering to certain non-ERCOT utilities

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 11 ayes — Phelan, Deshotel, Harless, Holland, Hunter, P. King, Parker, Raymond, E. Rodriguez, Smithee, Springer

0 nays

2 absent — Hernandez, Guerra

WITNESSES: For — Erika Akpan, Association of Electric Companies of Texas; (*Registered, but did not testify*: Gary Gibbs and Jonathan Griffin, AEP SWEPCO; Isaac Albarado, AEP Texas; June Deadrick, CenterPoint Energy; Cyrus Reed, Lone Star Chapter Sierra Club; Mia Hutchens, Texas Association of Business; Thomas Ratliff, Tri Global Energy and Sunfinity Solar; Adrian Shelley)

Against — None

On — (*Registered, but did not testify*: Therese Harris, Public Utility Commission of Texas)

BACKGROUND: Utilities Code ch. 39, subch. K regulates investor-owned electric utilities operating solely outside of the Electric Reliability Council of Texas (ERCOT) in certain areas of the state included in the Southwest Power Pool that were not affiliated with the Southeastern Electric Reliability Council (Southwestern Electric Power Company).

Utilities Code sec. 39.107 requires the Public Utility Commission (PUC) to establish a nonbypassable surcharge for an electric utility to use to recover reasonable and necessary costs incurred in deploying advanced metering and meter information networks. PUC must ensure that the surcharge reflects no more than one-third of the utility's total meters over a calendar year and does not result in the utility recovering more than its actual, fully allocated meter and meter information network costs.
The statute also requires PUC to prohibit an electric utility from selling,

sharing, or disclosing certain information generated or collected from an advanced metering system or meter information network, including customer information.

DIGEST:

HB 1595 would allow certain investor-owned non-ERCOT electric utilities operating under ch. 39, subch. K of the Utilities Code that elected to deploy advanced metering and meter information networks to recover reasonable and necessary costs incurred from that deployment. The utility would be subject to PUC rules related to customer surcharges and privacy of customer information.

PUC would be required to ensure that the deployment plan and any related customer surcharge did not apply to customer accounts that received service at transmission voltage and were consistent with PUC rules related to advanced metering systems regarding customer protections, data security, and non-advanced meter options for customers.

An electric utility that elected to deploy an advanced meter information network under this bill would have to deploy that network as rapidly as practicable to allow customers to better manage energy use and control costs.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

SUPPORTERS SAY:

HB 1595 would allow utilities in the region served by Southwestern Electric Power Company (SWEPCO) to deploy advanced metering and meter information networks in the same manner as utilities in the Electric Reliability Council of Texas (ERCOT) service region. Currently, utilities within ERCOT, which encompasses most of the state, may deploy advanced meters and adopt surcharges to recover the cost of deployment if they adhere to certain Public Utility Commission (PUC) rules. It is unclear whether these rules also would apply to non-ERCOT utilities such as SWEPCO.

The bill would clarify that those same rules applied to the service territory of SWEPCO to ensure that surcharges were regulated and consumer data

was protected consistently across the state, expressly allowing more utilities to use advanced meters. The Legislature extended PUC rules to cover another non-ERCOT electric utility in 2017 and should continue to expand coverage of advance metering rules.

Advanced meters provide several benefits to customers, including real-time data on grid operations, faster response times to outages, outage prevention measures, potential cost savings, and customer service upgrades. Customers served by non-ERCOT utilities also should be able to access these benefits.

HB 1595 would not change the rate-setting process, since the rates of non-ERCOT utilities are under PUC regulation. A utility like SWEPCO would have to develop a plan to deploy advanced metering and meter information networks, then get approval from PUC before the plan could go forward. Any time the utility raises rates or surcharges, they must get approval from PUC, and interested parties may intervene to ensure the proposed rate or surcharge is in the public's best interest. Municipally owned utilities and electric cooperatives do not follow the same PUC regulations and have more flexibility with rate setting. The bill simply would clarify that certain non-ERCOT utilities could go forward with deploying advanced metering like most other utilities already can.

OPPONENTS SAY:

HB 1595 essentially would allow certain non-ERCOT utilities to increase rates by adding a surcharge. Further, utilities would not have to prove that a surcharge was needed to recover the costs of deploying advanced metering. While advanced meters have several customer benefits, electric cooperatives and municipally owned utilities have been able to deploy systems without needing to assess surcharges, recovering the costs with base rates. This bill would add to the inconsistent rate setting process in the state.

SUBJECT: Applying PUC rules on advanced metering to certain non-ERCOT utilities

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 11 ayes — Phelan, Deshotel, Harless, Holland, Hunter, P. King, Parker, Raymond, E. Rodriguez, Smithee, Springer

0 nays

2 absent — Hernandez, Guerra

WITNESSES: For — Erika Akpan, Association of Electric Companies of Texas; (*Registered, but did not testify*: Gary Gibbs, AEP SWEPCO; June Deadrick, CenterPoint Energy; Cyrus Reed, Lone Star Chapter Sierra Club; Mia Hutchens, Texas Association of Business; Thomas Ratliff, Tri Global Energy and Sunfinity Solar; David Hudson, Xcel Energy and Southwestern Public Service Company; Adrian Shelley)

Against — None

On — (*Registered, but did not testify*: Therese Harris, Public Utility Commission of Texas)

BACKGROUND: Utilities Code ch. 39, subch. I regulates certain investor-owned electric utilities operating solely outside of the Electric Reliability Council of Texas (ERCOT) with fewer than six synchronous interconnections with voltage levels above 69 kilovolts systemwide on the effective date of the subchapter (Southwestern Public Service Company).

Utilities Code sec. 39.107 requires the Public Utility Commission (PUC) to establish a nonbypassable surcharge for an electric utility to use to recover reasonable and necessary costs incurred in deploying advanced metering and meter information networks. PUC must ensure that the surcharge reflects no more than one-third of the utility's total meters over a calendar year and does not result in the utility recovering more than its actual, fully allocated meter and meter information network costs.
The statute also requires PUC to prohibit an electric utility from selling,

sharing, or disclosing certain information generated or collected from an advanced metering system or meter information network, including customer information.

DIGEST:

HB 986 would allow certain investor-owned non-ERCOT electric utilities operating under ch. 39, subch. I of the Utilities Code that elected to deploy advanced metering and meter information networks to recover reasonable and necessary costs incurred from that deployment. The utility would be subject to Public Utility Commission (PUC) rules related to customer surcharges and privacy of customer information.

PUC would be required to ensure that the deployment plan and any related customer surcharge did not apply to customer accounts that received service at transmission voltage and were consistent with PUC rules related to advanced metering systems regarding customer protections, data security, and non-advanced meter options for customers.

An electric utility that elected to deploy an advanced meter information network under this bill would have to deploy that network as rapidly as practicable to allow customers to better manage energy use and control costs.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

SUPPORTERS SAY:

HB 986 would allow the Southwestern Public Service Company (SPS) to deploy advanced metering and meter information networks in the same manner as utilities in the Electric Reliability Council of Texas (ERCOT) region. Currently, utilities in the ERCOT region, which encompasses most of the state, may deploy advanced meters and adopt surcharges to recover the cost of deployment if they adhere to certain Public Utility Commission (PUC) rules. It is unclear whether these rules also would apply to non-ERCOT utilities such as SPS.

The bill would clarify that those same rules applied to the service territory of SPS to ensure that surcharges were regulated and consumer data was protected consistently across the state, expressly allowing more utilities to

use advanced meters. The Legislature extended PUC rules to cover another non-ERCOT electric utility in 2017 and should continue to expand coverage of advance metering rules.

Advanced meters provide several benefits to customers, including real-time data on grid operations, faster response times to outages, outage prevention measures, potential cost savings, and customer service upgrades. Customers served by non-ERCOT utilities also should be able to access these benefits.

HB 986 would not change the rate-setting process, since the rates of non-ERCOT utilities are under PUC regulation. A utility like SPS would have to develop a plan to deploy advanced metering and meter information networks, then get approval from PUC before the plan could go forward. Any time the utility raises rates or surcharges, they must get approval from PUC, and interested parties may intervene to ensure the proposed rate or surcharge is in the public's best interest. Municipally owned utilities and electric cooperatives do not follow the same PUC regulations and have more flexibility with rate setting. The bill simply would clarify that certain non-ERCOT utilities could go forward with deploying advanced metering like most other utilities already can.

OPPONENTS SAY:

HB 986 essentially would allow certain non-ERCOT utilities to increase rates by adding a surcharge. Further, utilities would not have to prove that a surcharge was needed to recover the costs of deploying advanced metering. While advanced meters have several customer benefits, electric cooperatives and municipally owned utilities have been able to deploy systems without needing to assess surcharges, recovering the costs with base rates. This bill would add to the inconsistent rate setting process in the state.

SUBJECT: Applying PUC rules on advanced metering to certain non-ERCOT utilities

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 11 ayes — Phelan, Deshotel, Harless, Holland, Hunter, P. King, Parker, Raymond, E. Rodriguez, Smithee, Springer

0 nays

2 absent — Hernandez, Guerra

WITNESSES: For — Erika Akpan, Association of Electric Companies of Texas; Cyrus Reed, Lone Star Chapter Sierra Club; (*Registered, but did not testify*: Gary Gibbs, AEP SWEPCO; June Deadrick, CenterPoint Energy; Patrick Reinhart, El Paso Electric Company; Mia Hutchens, Texas Association of Business; Thomas Ratliff, Tri Global Energy and Sunfinity Solar; Adrian Shelley)

Against — None

On — (*Registered, but did not testify*: Therese Harris, Public Utility Commission of Texas)

BACKGROUND: Utilities Code ch. 39, subch. L regulates certain investor-owned electric utilities operating solely outside of the Electric Reliability Council of Texas (ERCOT) in areas of the state included in the Western Electricity Coordinating Council (El Paso Electric Company).

Utilities Code sec. 39.107 requires the Public Utility Commission (PUC) to establish a nonbypassable surcharge for an electric utility to use to recover reasonable and necessary costs incurred in deploying advanced metering and meter information networks. PUC must ensure that the surcharge reflects no more than one-third of the utility's total meters over a calendar year and does not result in the utility recovering more than its actual, fully allocated meter and meter information network costs.

The statute also requires the PUC to prohibit an electric utility from

selling, sharing, or disclosing certain information generated or collected from an advanced metering system or meter information network, including customer information.

DIGEST:

HB 853 would allow certain investor-owned non-ERCOT electric utilities operating under ch. 39, subch. L of the Utilities Code that elected to deploy advanced metering and meter information networks to recover reasonable and necessary costs incurred from that deployment. The utility would be subject to Public Utility Commission (PUC) rules related to customer surcharges and privacy of customer information.

PUC would have to ensure that the deployment plan and any related customer surcharge did not apply to customer accounts that received service at transmission voltage and were consistent with PUC rules related to advanced metering systems regarding customer protections, data security, and non-advanced meter options for customers.

An electric utility that elected to deploy an advanced meter information network under this bill would have to deploy that network as rapidly as practicable to allow customers to better manage energy use and control costs.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

SUPPORTERS SAY:

HB 853 would allow the El Paso Electric Company to deploy advanced metering and meter information networks in the same manner as electric utilities in the Electric Reliability Council of Texas (ERCOT) service region. Currently, utilities in the ERCOT region, which encompasses most of the state, may deploy advanced meters and adopt surcharges to recover the cost of deployment if they adhere to certain Public Utility Commission (PUC) rules. It is unclear whether these rules also would apply to non-ERCOT utilities such as El Paso Electric.

The bill simply would clarify that those same rules applied to the service territory of El Paso Electric to ensure that surcharges were regulated and consumer data was protected consistently across the state, expressly

allowing more utilities to use advanced meters. The Legislature extended PUC rules to cover another non-ERCOT electric utility in 2017 and should continue to expand coverage of advanced metering rules.

Advanced meters provide several benefits to customers, including real-time data on grid operations, faster response times to outages, outage prevention measures, potential cost savings, and customer service upgrades. Customers served by non-ERCOT utilities also should be able to access these benefits.

HB 853 would not change the rate-setting process, since the rates of non-ERCOT utilities are under PUC regulation. A utility like El Paso Electric would have to develop a plan to deploy advanced metering and meter information networks, then get approval from local entities as well as PUC before the plan could go forward. Any time the utility raises rates or surcharges, they must get approval from PUC and interested parties may intervene to ensure the proposed rate or surcharge is in the public's best interest. Municipally owned utilities and electric cooperatives do not follow the same PUC regulations and have more flexibility with rate setting. The bill simply would clarify that certain non-ERCOT utilities could go forward with deploying advanced metering like most other utilities already can.

OPPONENTS SAY:

HB 853 essentially would allow certain non-ERCOT utilities to increase rates by adding a surcharge. Further, utilities would not have to prove that a surcharge was needed to recover the costs of deploying advanced metering. While advanced meters have several customer benefits, electric cooperatives and municipally owned utilities have been able to deploy systems without needing to assess surcharges, recovering the costs with base rates. The bill would add to the inconsistent rate setting process in the state.

SUBJECT: Allowing certain utilities to adjust rates for power-generation investments

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 11 ayes — Phelan, Deshotel, Harless, Holland, Hunter, P. King, Parker, Raymond, E. Rodriguez, Smithee, Springer

0 nays

2 absent — Hernandez, Guerra

WITNESSES: For — Jonathan Griffin, AEP SWEPCO; Julia Rathgeber, Association of Electric Companies of Texas; Lino Mendiola, Entergy Texas Inc.; (*Registered, but did not testify*: Gary Gibbs, AEP SWEPCO; Isaac Albarado, AEP Texas; June Deadrick, CenterPoint Energy; Patrick Reinhart, El Paso Electric Company; Michael Geary, Texas Conservative Coalition; Jake Posey, Universal Coin and Bullion Ltd. of Beaumont; Mance Zachary, Vistra Energy; Damon Withrow, Xcel Energy/Southwestern Public Service Co.)

Against — Richard A. Bennett and Phillip Oldham, Texas Association of Manufacturers; Hector Rivero, Texas Chemical Council; Todd Staples, Texas Oil and Gas Association; (*Registered, but did not testify*: Joe Arnold, BASF Corporation; Paula Bulcao, BP America, Inc.; Guadalupe Cuellar, City of El Paso; Jamaal Smith, City of Houston; Alfred Herrera, Counsel for Cities Advocating Reasonable Deregulation, Texas Coast Utilities Coalition of Cities, Alliances of CenterPoint Municipalities, Atmos Texas Municipalities; Daniel Womack, Dow Chemical; Samantha Omey, Exxon Mobil; Todd Morgan, International Paper Corp.; Randy Cubriel, Nucor; Julie Moore, Occidental Petroleum; Neftali Partida, Phillips 66; Shanna Igo, Texas Municipal League; Brad Schlueter, U.S. Steel; Jay Brown, Valero; Jonathan Harding, WestRock Company)

On — Cyrus Reed, Lone Star Chapter Sierra Club; Darryl Tietjen, JP Urban, Public Utilities Commission of Texas

BACKGROUND: Utilities Code sec. 36.003 requires regulatory authorities to ensure that

rates set by electric utilities are just and reasonable. Sec. 36.051 requires regulatory authorities to establish an electric utility's revenue at an amount that will permit the utility a reasonable opportunity to earn a reasonable return on invested capital while providing services to the public.

Sec. 36.212 requires electric utilities that operate solely outside of the Energy Reliability Council of Texas undergo a base rate review at least every four years.

DIGEST:

HB 1387 would allow electric utilities that operate outside the Energy Reliability Council of Texas (ERCOT) to submit to the Public Utility Commission (PUC) an application for a rider to recover the non-ERCOT utility's reasonable and necessary power generation investments.

The application could be filed and approved by PUC before the utility placed the power generation investment in service. The rider would take effect on the date the investment began providing service.

The rider would be required to account for changes in the number of an electric utility's customers and the effects, on a weather-normalized basis, that energy consumption and demand had on the amount of revenue recovered through the utility's base rates.

If the utility's investment was greater than $200 million on a Texas jurisdictional basis, the utility would be required to undergo a base rate review no later than 18 months after the rider took effect.

The bill would extend the expiration date of certain statutory provisions relating to cost recovery and rate adjustment for non-ERCOT utilities from September 1, 2023, to September 1, 2031.

PUC would be required to adopt rules as necessary to implement the bill by September 1, 2020.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

SUPPORTERS SAY:

HB 1397 would reduce regulatory lag and encourage investment in non-Electric Reliability Council Of Texas (ERCOT) areas by allowing electric utilities in those locations to request riders to modify their rates in order to build new power-generation infrastructure. Under current law, these utilities only are able to adjust their rates every four years, which often has left them unable to recoup the costs of their investments.

Consumers would be protected from excessive rate hikes because the Public Utility Commission (PUC) would have authority to grant or reject the rider based on whether the investment was prudent and necessary and whether the proposed rates were just and reasonable. PUC already is required to host hearings on riders. Any consumer may request a rate case review, and PUC is required to initiate such a review if a utility over-earns for two years in a row.

Allowing utilities to apply for riders would make the cost recovery process for power-generation investment more efficient, leading to lower borrowing costs. This would strengthen non-ERCOT utility credit ratings and lead to lower capital costs, which could reduce rates.

OPPONENTS SAY:

HB 1397 could allow non-ERCOT utilities to raise rates and exceed their permitted return on investment by using riders to shift the burden of investment to captive ratepayers. Riders could be susceptible to abuse because they would not take into account whether costs had decreased elsewhere in the system and could extend for up to four years without receiving a base rate review from PUC.

OTHER OPPONENTS SAY:

HB 1397 should be amended to create a study to investigate the potential for securitization for non-ERCOT utilities that would couple investment in cleaner power generation with the retirement of older infrastructure that could cause issues with water use or air quality.

SUBJECT: Authorizing counties to adopt rules for beach use; creating an offense

COMMITTEE: Culture, Recreation and Tourism — committee substitute recommended

VOTE: 9 ayes — Cyrier, Martinez, Bucy, Gervin-Hawkins, Holland, Jarvis Johnson, Kacal, Morrison, Toth

0 nays

WITNESSES: For — John Blankenship, Joe Ripple, and David Thacker, Brazoria County; (*Registered, but did not testify*: Adam Haynes, Conference of Urban Counties; Jim Allison, County Judges and Commissioners Association of Texas; Cyrus Reed, Lone Star Chapter Sierra Club; AJ Louderback, Sheriffs' Association of Texas; Bobbie Vickery)

Against — None

DIGEST: CSHB 1628 would authorize the commissioners court of certain counties bordering the Gulf Coast to adopt reasonable rules for an island park, beach park, or any part of a public beach controlled or maintained by the county. These rules could govern camping, access, litter, resource protection, or waste disposal so long as the rules were consistent with statutes governing the use and maintenance of public beaches and dunes.

The bill would apply to a Gulf Coast county that had within its boundaries one or more islands or parts of islands suitable for park purposes and a beach that was wholly or partly operated by the county or was otherwise controlled and maintained by the county.

A violation of a rule adopted under the bill's provisions would be a class C misdemeanor (maximum fine of $500).

The bill would take effect September 1, 2019.

SUPPORTERS SAY: CSHB 1628 would protect public beaches by authorizing coastal counties to adopt rules governing use of the beaches and to prevent abuses of the property. While large cities have the authority to adopt and enforce such

rules, smaller communities currently do not, leaving their beaches vulnerable to abuse.

In some areas, such as Brazoria County, displaced individuals have taken up residence on public beaches, creating numerous public health and sanitation issues, threatening public safety, and risking environmental damage to public land. This also undermines the broader public's use of the beaches. Small communities that govern public beaches should have the authority to adopt and enforce rules to protect those beaches and to end or prevent potential harm.

OPPONENTS SAY:

CSHB 1628 would allow counties to criminalize camping on public beaches, which would punish displaced individuals when they lacked access to alternative shelter. Authorizing measures such as fines would not address underlying problems such as inadequate housing. Communities instead should develop constructive strategies to fix the problem.

SUBJECT: Redacting judges' addresses from financial statements filed with counties

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

VOTE: 9 ayes — Leach, Farrar, Y. Davis, Julie Johnson, Krause, Meyer, Neave, Smith, White

0 nays

WITNESSES: For — Brooke Allen; (*Registered, but did not testify*: Jim Allison, County Judges and Commissioners Association of Texas; Alexis Tatum, Travis County Commissioners Court)

Against — None

BACKGROUND: Local Government Code sec. 159.052 requires judges of statutory county courts and statutory probate courts and candidates for these offices to file an annual financial statement with either the county clerk or the Texas Ethics Commission (TEC). Under sec. 159.055(a), these statements are public records. Sec. 159.055(b) requires county clerks and the commission, upon written request, to remove the names of the filers' dependent children before the statement is made publicly available.

Government Code sec. 572.032 requires the TEC to remove the home address of judges from their financial statements before making the statements public.

DIGEST: HB 1872 would require both county clerks and the Texas Ethics Commission (TEC) to remove the home addresses of county judges and statutory probate judges, as well as candidates for these offices, from annual financial statements before the statements were made public. The bill would remove a requirement that a written request from these judges or candidates be made before the names of their dependent children were removed from the statements. Clerks would be required to remove the children's names before making a statement public. Home addresses and dependent children's names also would have to be removed from any record that was derived from the financial statements.

Changes made by HB 1872 would apply to information in financial statements regardless of whether the statements were filed before the effective date.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

SUPPORTERS SAY:

HB 1872 would give judges filing their personal financial statements with county clerks the same privacy and security protections as those who file their reports with the Texas Ethics Commission (TEC). While all judges in Texas are required to file annual financial statements, some must file with the TEC and others have the option of filing with the TEC or with the county clerk. Home addresses of judges are automatically redacted from statements filed with the TEC, but when statements are filed with county clerks, there is no such requirement.

All judges in Texas deserve to have their private addresses protected. HB 1872 would give judges filing locally and their families peace of mind, knowing that this personal information was not readily available through public financial statements. The bill would be a logical extension of the requirement that the TEC remove judges' home addresses from financial statements and the requirement that clerks remove the names of dependent children from the statements upon written request.

HB 1892 would not burden clerks, who already redact information from these forms and are required to keep the forms only for a limited time.

OPPONENTS SAY:

No concerns identified.

SUBJECT: Eliminating required legislative approval for the sale of Texas Tech land

COMMITTEE: Higher Education — favorable, without amendment

VOTE: 11 ayes — C. Turner, Stucky, Button, Frullo, Howard, E. Johnson, Pacheco, Schaefer, Smithee, Walle, Wilson

0 nays

WITNESSES: For — None

Against — None

On — Gary Barnes, Texas Tech University System

BACKGROUND: Education Code sec. 109.054 requires the board of regents of the Texas Tech University System to obtain legislative approval before selling any land that is part of the university's original main campus.

DIGEST: HB 2709 would eliminate the provision that requires the Legislature to approve the sale of land that is part of Texas Tech University's original main campus.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

SUPPORTERS SAY: HB 2709 would eliminate an outdated provision and grant the board of regents of the Texas Tech University System the authority necessary to best address the needs of the system's stakeholders. The board currently must receive legislative approval for the sale of certain campus lands, which can delay needed projects and inhibit the ability of the board to efficiently manage and use the university's resources.

In 1983, the Legislature began requiring legislative approval for the sale of land that was part of Texas Tech University's original main campus. Since then, the Legislature has established the Texas Tech University

System and its board of regents. These regents are in the best position to determine the appropriate use of campus land, and as they are appointed by the governor and approved by the Senate, they are already accountable to the public without the need of further oversight by the Legislature.

During the 85th regular legislative session, the Legislature enacted a bill allowing the board of regents to transfer ownership of land from Texas Tech University to Texas Tech University Health Sciences Center. Without that bill, the transfer could not have been completed. Projects such as these cannot always wait for the next legislative session or the delays inherent in the legislative calendar. In addition, the Legislature does not exercise similar oversight over any other statewide university system. The requirement for legislative approval is outdated, inefficient, and should be removed.

OPPONENTS SAY:

No concerns identified.

SUBJECT: Creating a website providing real-time information on cross-border traffic

COMMITTEE: International Relations and Economic Development — favorable, without amendment

VOTE: 7 ayes — Anchia, Frullo, Blanco, Cain, Larson, Raney, Romero

0 nays

2 absent — Metcalf, Perez

WITNESSES: For — Elizabeth Lippincott, Texas Border Coalition; (*Registered, but did not testify*: Guadalupe Cuellar, City of El Paso; Claudia Russell, El Paso County)

Against — None

On — Rafael Aldrete, Texas A&M Transportation Institute; (*Registered, but did not testify*: Brian Barth, Caroline Mays, and Peter Smith, TxDOT)

DIGEST: HB 260 would require the Texas Department of Transportation (TxDOT) to create and maintain, in collaboration with the Texas A&M Transportation Institute, a publicly accessible online portal designed to provide real-time information on motor vehicle movements at ports of entry on the Texas-Mexico border.

The bill also would authorize TxDOT to collaborate on the project with other state, federal, and local governmental entities, and with the government of Mexico and any of its political subdivisions. The agency would be required to develop the portal not later than September 1, 2021.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

SUPPORTERS SAY: HB 260 would make cross-border trade and travel more efficient by providing commercial vehicles and the traveling public with a resource to

make better-informed travel decisions.

Security inspections and increased truck traffic at the Texas-Mexico border create delays that are disruptive and costly to shippers, manufacturers, and, ultimately, consumers. By helping to redress this, HB 260 would bolster economically vital trade between Mexico and Texas.

Although Texas already has a Border Crossing Information System (BCIS) that provides information about expected wait times and crossing times for several important border crossings, this system does not integrate lessons learned from the latest research. In recent years the Texas A&M Transportation Institute has undertaken several research projects that produced analytical tools to more accurately determine wait times, calculate real-time traffic volumes, and estimate travel times from point of origin to the final destination. These research projects have produced useful results on their own, but the Institute has yet to tie together the results with the existing BCIS data and portal.

The web portal created under HB 260 would build on existing technology and integrate new analytics that reflect the latest research, improving on internet resources already provided by BCIS and U.S. Customs and Border Protection. According to the LBB, there would be no significant fiscal impact; any costs associated with implementing the bill could be accommodated within TxDOT's existing federal and state highway planning, construction, and research funds. Because the Texas A&M Transportation Institute already has taken steps to create the web portal and developed analytics tools that could be used in the project, implementation within the two-year timeframe provided for under the bill should be feasible.

OPPONENTS SAY:

HB 260 would require the creation of a web portal that would partly duplicate functions of existing portals maintained by state and federal entities. The bill's language is unclear about whether every port of entry between Texas and Mexico would be monitored by the program. Installing traffic-monitoring equipment and implementing actionable analytics for every border crossing, including those that are not heavily congested, could impose a financial cost on state agencies and could be

challenging to implement within a two-year timeframe.

SUBJECT: Creating Sam Houston State University College of Osteopathic Medicine

COMMITTEE: Higher Education — favorable, without amendment

VOTE: 11 ayes — C. Turner, Stucky, Button, Frullo, Howard, E. Johnson, Pacheco, Schaefer, Smithee, Walle, Wilson

0 nays

WITNESSES: For — None

Against — None

On — Dana Hoyt, Sam Houston State University; (*Registered, but did not testify*: Charles Henley, Sam Houston State University; Rex Peebles, Texas Higher Education Coordinating Board)

DIGEST: HB 2867 would establish the Sam Houston State University College of Osteopathic Medicine as a college of Sam Houston State University (SHSU) under the management and control of the board of regents of the Texas State University System.

HB 2867 would classify the college as:

- a medical and dental unit under the Texas Higher Education Coordinating Board;
- a health-related institution of higher education eligible for appropriations from the permanent health fund to benefit medical research, health education, or treatment programs;
- a participating medical school in the Joint Admission Medical Program, which provides services and scholarships to qualified, economically disadvantaged students pursuing a medical education;
- a medical school that could appoint resident physicians eligible to receive compensation;
- a medical school that could enter into contracts for medical residency programs; and
- a university system and health center permitted to purchase medical

malpractice insurance and establish a medical professional liability fund.

Under the bill, the board of regents could prescribe courses leading to customary degrees and adopt rules for the operation, control, and management of the college as necessary. The board would also be permitted to solicit, accept, and administer gifts and grants from any public or private source for the use and benefit of the college, as well as enter into agreements under which a public or private entity could provide additional facilities to be used in the college's teaching and research programs.

SHSU would not be entitled to receive formula funding for the College of Osteopathic Medicine. The college would be eligible to receive funding under the permanent health fund for higher education beginning September 1, 2019.

The bill would allow the provost of SHSU, on behalf of the board, to execute and carry out an affiliation or coordinating agreement with any other entity or institution. HB 2867 also would allow a public or private entity to provide SHSU's College of Osteopathic Medicine with a teaching hospital considered suitable by the board of regents. The hospital could not be constructed, maintained, or operated with state funds.

As soon as practicable after the bill's effective date, the SHSU College of Osteopathic Medicine would be required to enter into an agreement with the Joint Admission Medical Program Council and select an appropriate faculty member to represent the college on the council. The college would provide internships and mentoring under the Joint Admission Medical Program by the 2022-2023 academic year to admit participating students to the college.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

SUPPORTERS SAY:

HB 2867 would help address the primary care physician shortage in Texas, especially in rural and underserved areas, by establishing the College of Osteopathic Medicine at Sam Houston State University

(SHSU). The medical school would be clinically focused and community-based and would help bridge the gap between rural and urban healthcare by focusing on residency programs in underserved areas. The bill also would maximize financial support opportunities for prospective and current medical students by allowing SHSU to access funds under the Joint Admission Medical Program and would give the school access to important insurance coverage, residency funding, and other important programs.

The bill would prohibit SHSU from seeking formula funding for its medical school. Many of the college's startup costs for land, facilities, and operational expenses would be covered by available non-state funds, and the university is currently working to secure federal funding in lieu of state funding for many of its residency slots. The medical school's 10-year plan does not include a plan for using revenue bond funds.

OPPONENTS SAY:

HB 2867 could increase state costs because it would not prohibit Sam Houston State University from requesting or receiving non-formula funding from the state, which could include tuition revenue bonds to cover operational expenses.

NOTES:

According to the Legislative Budget Board, the bill would permit Sam Houston State University (SHSU) to request non-formula support, which could, if funded, result in significant costs to the state. It is assumed that startup costs for land and facilities for the College of Osteopathic Medicine are adequately covered by non-state funds available to SHSU.

SUBJECT: Exempting certain school districts and cities from investment training

COMMITTEE: Pensions, Investments and Financial Services — favorable, without amendment

VOTE: 11 ayes — Murphy, Vo, Capriglione, Flynn, Gervin-Hawkins, Gutierrez, Lambert, Leach, Longoria, Stephenson, Wu

0 nays

WITNESSES: For — (*Registered, but did not testify*: Michael Lee, Texas Association of Rural Schools; Monty Wynn, Texas Municipal League; John Grey, Texas School Alliance)

Against — None

On — (*Registered, but did not testify*: Dominic Giarratani, Texas Association of School Boards)

BACKGROUND: Government Code sec. 2256.008(a-1) requires the treasurer or chief financial officer, as appropriate, and investment officer of a school district or municipality to complete an investment training session at least once in an applicable two-year period and receive at least eight hours of instruction relating to investment responsibilities under the Public Funds Investment Act from an independent source approved by the district's or municipality's governing body.

DIGEST: HB 293 would exempt the treasurer or chief financial officer, as appropriate, and investment officer of a school district or municipality from otherwise required investment trainings if the district or municipality:

- did not invest district or municipal funds; or
- only deposited those funds in interest-bearing deposit accounts or certificates of deposit.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take

effect September 1, 2019.

SUPPORTERS SAY:

HB 293 would remove an unnecessary and unfunded training mandate on school districts and municipalities that do not invest public funds or invest only in certain low-risk financial products. The purpose of requiring investment training for local government financial officers is to provide the stewards of public funds with a minimal amount of risk-based investment training to encourage responsible investing. However, some school districts and municipalities invest only in interest-bearing deposit accounts and certificates of deposit (CDs), which are FDIC-insured and therefore risk-free investments guaranteed by the federal government. For those school districts and municipalities, investment training serves no purpose and is an unnecessary drain on time and financial resources.

Any school district or municipality that is investing public funds into any type of asset other than interest-bearing deposit accounts or CDs would still have to complete the training. If a school district or municipality that invested only in interest-bearing deposit accounts and CDs changed their policy and began investing in other assets, their financial officer would be required to complete the investment trainings.

The bill appropriately would preserve a minimal amount of required training for financial officers who invest public funds in investment pools. While investment pools are low-risk investments, they are not FDIC-insured and thus carry some risk. Requiring those responsible for investing public funds to be trained serves an important public interest. Exempting school districts and municipalities that invest in investment pools from training requirements could lead to even more exemptions in the future, which would undermine the purpose of required investment training.

OPPONENTS SAY:

While HB 293 would provide important relief for school districts and municipalities that invest only in interest-bearing deposit accounts and CDs, the training exemption should be extended to school districts and municipalities that invest in investment pools. Investment pools are created under state law to invest public funds jointly on behalf of participating entities, and they prioritize preservation and safety of principal and liquidity over yield. They are managed by highly qualified

investment staff who partake in biennial Public Funds Investment Act training and other federal and state training and licensing requirements. In current practice, some school districts and municipalities use investment pools like checking accounts. Investment training is an unnecessary and wasteful mandate on those school districts and municipalities who invest only in interest-bearing deposit accounts and CDs, as well as in investment pools.

SUBJECT: Requiring solicitation of feedback on state mandates from school districts

COMMITTEE: Public Education — committee substitute recommended

VOTE: 12 ayes — Huberty, Bernal, Allen, Allison, Ashby, K. Bell, M. González, K. King, Meyer, Sanford, Talarico, VanDeaver

0 nays

1 absent — Dutton

WITNESSES: For — Mark Terry, Texas Elementary Principals and Supervisors Association; (*Registered, but did not testify*: Barry Haenisch, Texas Association of Community Schools; Casey McCreary, Texas Association of School Administrators; Dominic Giarratani, Texas Association of School Boards; Kristin McGuire, Texas Council of Administrators of Special Education)

Against — None

On — (*Registered, but did not testify*: Matthew Simcock, Texas Education Agency)

BACKGROUND: Education Code ch. 8 directs the commissioner of education to provide for the establishment and operation of regional education service centers to assist school districts in improving student performance in each region of the system, enable school districts to operate more efficiently and economically, and implement initiatives assigned by the Legislature or the commissioner.

DIGEST: CSHB 674 would require the commissioner of education, while conducting an annual review of regional education service centers, to solicit certain information from school districts served by the centers.

The commissioner would solicit information about districts' reliance on the centers for assistance in complying with state education laws and rules and the specific state education laws or rules for which compliance was

most burdensome and expensive.

The commissioner could not use information solicited through these provisions in the annual evaluation of the centers.

The bill would take effect September 1, 2019.

SUPPORTERS SAY:

CSHB 674 would establish a process for school districts served by education service centers to report which state education laws and rules were most onerous and expensive for compliance purposes. This would allow lawmakers to work toward relieving school districts of some of those burdens. Because the bill would simply add questions to an existing voluntary survey from the education commissioner, it would not be a burden to school districts.

Education service centers serve an important supportive role for school districts, especially small or rural districts that may lack resources to fulfill state mandates. Information gathered as a result of CSHB 674 would help the centers tailor services for the areas they serve.

OPPONENTS SAY:

No concerns identified.